

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARJAM SUPPLY CO. : CIVIL ACTION
v. :
BCT WALLS & CEILINGS, INC. :
AND BERNARD C. TORDA, JR. : NO. 02-CV-2890

ANSWER TO DEFENDANTS' MOTION

1-4. Admitted.

5. Denied. On the contrary, as stated in the Court's opinion, BCT failed to reject it on delivery and used it in the project. The materials were installed by BCT without inspecting them.

6-8. Admitted.

9. Denied. On the contrary, as stated in the Court's opinion, BCT failed to reject it on delivery and used it in the project. The materials were installed by BCT without inspecting them.

10. Denied. On the contrary, at no time has plaintiff presented its case as a simple collection case. Numerous depositions, extensive trial preparation and three days of trial have taken place. Now, to add insult to injury, defendants have filed this frivolous motion rather than accepting the Court's even-handed decision. Although plaintiff did not get all that it was seeking, it did not consider for a second the thought of filing a Motion for a New Trial.

12. Denied. On the contrary, a percentage counsel fee and interest, especially between commercial enterprises, are proper, lawful and enforceable.

WHEREFORE, plaintiff requests that defendants' Motion be denied.

KRAFT & KRAFT, P.C.

BY: _____

Robert E. Cherwony, Esquire
Attorney for Plaintiff

Dated: _____

